

III. DEFINITIONS

ACCESS (LEGAL): Legal access means each lot in a subdivision abuts a Town, County, State, or Federal street or road, or that the subdivider has obtained adequate and appropriate easements across all necessary properties from a Town, County, State or Federal street or road to each lot in the subdivision.

ACCESS (PHYSICAL): Physical access means that a street or road conforming to the design standards herein provides vehicular access from a Town, County, State or Federal street or road--which conforms to the subdivision design standards herein--to each lot in the subdivision. Physical access may include driveways—which can be shared between adjacent lots.

ADJOINING (ADJACENT) PROPERTY OWNER: The owner of record of a parcel of land that is contiguous, at any point, or land that is separated from the parcel by a common road.

AGRICULTURAL ACTIVITY: As defined in 76-2-902, MCA means an activity that provides an annual gross income of not less than \$1,500 or that occurs on land classified as agricultural or forest land for taxation purposes. Agricultural activity means the growing, raising, or marketing of plants or animals by the owner, owner's agent, or lessee of land or that occurs on land that is classified as agricultural or forest land for taxation purposes. The term includes but is not limited to: (a) forages and sod crops; (b) dairy and dairy products; (c) poultry and poultry products; (d) livestock, including breeding, feeding, and grazing of livestock and recreational equine use; (e) fruits; (f) vegetables; (g) flowers; (h) seeds; (i) grasses; (j) trees, including commercial timber; (k) fresh water fish and fish products; (l) apiaries; (m) equine and other similar products; or (n) any other product that incorporates the use of food, feed, fiber, or fur. (See also related definitions: 41-2-103 and 81-8-701, MCA.)

AGRICULTURAL WATER USER FACILITY: Any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes as defined in 15-7-202, MCA. An agricultural water user facility includes but is not limited to ditches, siphons, flumes, dams, ponds, and head gates. It may include natural springs when the water from such springs is part of a recognized ditch system.

AIR NAVIGATION EASEMENT: An easement granted by a subdivider or landowner to the public the right for aircraft to fly over the airspace directly above the land and applicable to land in and near the Columbus City-County airport.

ARM: Administrative Rules of Montana.

CAPITAL FACILITIES: Any facilities necessary to serve the residents of a subdivision or the general public including roads, sewer lines, water supply lines, storm drains, or any

other capital facilities in a capital improvement program adopted pursuant to 7-6-2219 or 7-6-4134, MCA.

CERTIFICATE OF SURVEY (COS): A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations; used for exemptions to the MSPA, and to describe an existing tract of record. COS's are also governed by the Stillwater County and the Town of Columbus Evasion Criteria Appendix of these Regulations.

CLUSTERING: A design concept in which the property owner concentrates development on one or several portions of land leaving the remainder in open or undeveloped space (see 76-3-103(2), MCA).

CONDOMINIUM: A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use of the other units. Condominiums can be exempt from the subdivision review process pursuant to 76-3-203, MCA.

COUNTY ROAD: A street or road which was established and/or altered according to the provisions of Title 7, Chapter 14, MCA. A County road may be created by a court order and by right-of-way dedications accepted by Stillwater County.

COVENANT: An agreement, in writing, between two or more parties by which any of the parties pledge to the others that something is done or shall be done. Covenants may restrict uses and dictate other aspects of development within the subdivision. Covenants run with the land and are generally not enforced by the local governing body.

DEDICATION: The deliberate appropriation of land by an owner for any general and public use, reserving no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted (76-3-103(3), MCA).

DENSITY: The number of lots or dwelling units per acre.

DEQ: Montana Department of Environmental Quality.

DIVISION OF LAND: The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring, or contracting to transfer, title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the MSPA. Provided that where required by the Act, the land upon which an improvement is situated has been subdivided in compliance with the Act, the sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land and is not subject to the terms of the Act (MCA 76-3-103(4)).

DWELLING UNIT: A residential structure in which a person or persons may reside (76-3-621 (7)(b) MCA).

EASEMENT: A right to use a portion of another's land, other than as a tenant, for a specific purpose; a right-of-way or similar right over another's land. Examples of easements include those for roads, utilities, ditches, and drainage.

ENGINEER (REGISTERED PROFESSIONAL ENGINEER): A person licensed in conformance with the Montana Professional Engineer's Registration Act (Title 37, Chapter 67, MCA) to practice engineering in Montana.

EVASION OF THE MONTANA SUBDIVISION AND PLATTING ACT (MSPA): A use of the statutory exemptions from subdivision review which, in the judgement of the governing body, is not consistent with the legislative intent of MSPA, or which creates a pattern of development which is the equivalent of a subdivision without local government review and approval. The use of exemptions is governed by the Stillwater County Evasion Criteria Appendix of these Regulations.

FLOOD OF 100-YEAR FREQUENCY (BASE FLOOD): A flood magnitude expected to recur on the average of one every 100 years, or a flood magnitude which has a one percent chance of occurring in any given year (MCA 76-5-103(9)).

FLOOD BOUNDARY: The boundary based on a base flood elevations. The mapped floodplain boundary may be used as a guide for determining whether the property is within the designated floodplain, but the exact boundary shall be determined according to the base flood elevation.

FLOOD ELEVATION (BASE FLOOD ELEVATION): The elevation above sea level of the base flood in relation to national geodetic vertical datum of 1929, unless otherwise specified.

FLOOD FRINGE: Means that portion of a designated floodplain outside the limits of a designated floodway.

FLOODPLAIN: The area adjoining the watercourse or drainage which would be covered by the floodwater of a flood of 100-year frequency or base flood except for sheetflood areas that receive less than one foot of water per occurrence and are considered "zone b" areas by the Federal Emergency Management Agency. The floodplain consists of the floodway and the flood fringe (MCA 76-5-103(10)).

FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater of any watercourse or drainage (MCA 76-5-103(11)).

GOVERNING BODY: The Board of County Commissioners of Stillwater County or the Town Council of Columbus (MCA 76-3-103(7)).

HIGH FIRE HAZARD AREAS: High fire hazard areas contain "fire chimneys", heads of draws, excessive slopes, heavy fuels or other hazardous wildfire components, and as may be determined by the U.S. Forest Service or the Forestry Division of the Montana Department of State Lands or based on their criteria.

IMMEDIATE FAMILY: A spouse, children by blood or adoption, and parents (76-3-108(8), MCA).

IMPACT (OFF-SITE): This is an impact to a public facility(s) attributable to a proposed subdivision when the impacted facility is not located wholly within the boundaries of the proposed subdivision. Examples of off-site impacts include but are not limited to roads, bridges, sewer and water facilities (including mains), and storm drainage.

IRREGULARLY SHAPED TRACT OF LAND: A parcel of land other than an aliquot part of a U.S. government survey section or lot the boundaries of which cannot be determined without a survey or trigonometric calculation (76-3-103(9), MCA).

LOT: A parcel, plot, tract, or other land area created by subdivision for sale, rent, or lease.

LOT MEASUREMENTS: Will be taken as follows:

1. Lot Depth--the length of a line drawn perpendicularly from the front lot line and extending to the rear lot line.
2. Lot Width--the average width of the lot.
3. Lot Frontage--the width of the front lot line.
4. Lot Area--the area of a lot determined exclusive of street, highway, alley, road, or other right-of-way.

LOT TYPES:

1. Corner Lot: A lot located at the intersection of two streets.
2. Interior Lot: A lot with frontage on only one street.
3. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.
4. Flag Lot: A lot which is connected to a public or private street or road by a long, narrow strip of land used for access.

MAJOR SUBDIVISION: A subdivision containing six or more proposed lots.

MANUFACTURED HOME: Is a residential dwelling, eight feet or more in width and 40 feet or more in length, containing at least 320 square feet on a permanent chassis, designed for human occupancy, built in a factory in accordance with the U.S. Department of Housing and Urban Development Code or the Federal Manufactured Home Construction and Safety Standards. A manufactured home includes a house trailer or mobile home.

MINOR SUBDIVISION: If the tract of record proposed to be subdivided has not been subdivided; was not created by a subdivision under these Regulations; has not resulted from a tract of record, regardless of size, that has more than five parcels created from it via MCA 76-3-201 or 207 since July 1, 1973 (MCA 76-3-609(2)); or is at least 160 acres in size, then the proposed subdivision is a first minor subdivision from a tract of record. Further, such a minor subdivision contains five or fewer parcels and proper access to all lots is provided (MCA 76-3-609(2)).

MODULAR HOME: A dwelling constructed at a factory in accordance with the Uniform Building Code applicable to site-built homes and transported to the site for final assembly on a permanent foundation.

MONUMENT: Any structure of masonry, metal, or other permanent material placed in the ground which is exclusively identifiable as a monument to a survey point and expressly placed for surveying reference.

MSPA: The Montana Subdivisions and Platting Act, Title 76, Chapter 3, MCA

NUISANCE: Anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway is a nuisance (27-30-101, MCA).

OVERALL DEVELOPMENT PLAN: The plan of a subdivision design for a single tract of land which is proposed to be subdivided by stages or phases. The plan may be the preliminary plat for a phased major subdivision or a conceptual sketch which may be developed in the future.

PLANNED UNIT DEVELOPMENT (PUD): A land development project consisting of residential clusters, industrial parks, shopping centers, office building parks, or any combination thereof, which comprises a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in a common ownership or use (MCA 76-3-103(10)).

PLANNING BOARD: The Stillwater County Planning Board or the Town of Columbus City-County Planning Board formed pursuant to MCA Title 76, Chapter 1.

PLAT: A graphic representation of a subdivision.

1. Preliminary Plat: A neat, scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, site features and improvements, and other elements of a subdivision which furnish a basis for review by a governing body.

2. Final Plat: The final drawing of the subdivision prepared for filing for record with the County Clerk and Recorder and containing all elements and requirements set forth in these Regulations and MSPA and all relevant ARM's.

PRE-APPLICATION SKETCH: A legible drawing showing approximate boundaries, acreages, lots, accesss, and other pertinent information of a proposed subdivision.

PRIVATE ROAD: A road which is not owned by Columbus, the County, State, or Federal government and which is usually not dedicated to use by the public. The private road is generally owned, built, repaired, and maintained by a homeowners' association or an individual, corporation, trust, or other legal entity. Use of the road may be restricted by the owner(s) of the road.

PROPERTY OWNER: The legal title-holder of land.

PUBLIC ROAD: Public highways, roads, or streets which have been established by the public authorities under the statues in effect at the time the road or street was established, were recognized by them and used generally by the public, or which had become such by prescription or adverse use. Documentation of the process used to create the road must be provided to verify the road's status if used in subdivision. A public road may or may not be a Town, County, State, or Federal roadway.

RECREATIONAL VEHICLE: As defined in 61-1-132, MCA, includes motor homes, travel trailers, and other self propelled vehicles originally designed or permanently altered to provide temporary facilities for recreational, travel, or camping use.

RECREATIONAL VEHICLE PARK: A place used for public camping where persons can rent space to park individual camping trailers, pick-up campers, motor homes, travel trailers, recreational vehicles, or automobiles for transient dwelling purposes. Approval of such parks requires conformance to these Regulations.

REMAINING TRACT OF RECORD: A remaining tract of record is that part of an original tract that is left following the subdivision activity. See "Remainder Tract of Record" in Subsection J of Section V., Evasion Criteria, of these Regulations.

RIGHTS-OF-WAY: Means the privilege of immediate use of the roadway (MCA 61-8-102).

SECOND OR SUBSEQUENT MINOR SUBDIVISION: Any additional subdivisions created out of a tract of record from which the first minor subdivision was developed. There is no time limit on the creation of second or subsequent minor subdivisions.

STREET TYPES: For purposes of these Regulations, street types are defined as follows:

1. **Alley:** A street used primarily for vehicular access to the rear of properties which abut on and are served by public roads.
2. **Arterial:** Supports statewide or interstate travel. Characteristics include movements between population centers over 50,000 and a large majority over 25,000 population.
3. **Collector:** A street or road having the equally important functions of moving traffic and providing access to adjacent land. Serves county seats not on arterial routes, larger towns not served by higher systems, and other traffic generators such as shipping points, regional county parks, and important mining and agricultural areas. Collectors link nearby larger towns and cities.
4. **Local Streets:** Provide access to land adjacent to the collector network and serve travel over relatively short distances.
5. **Cul-de-sac:** A street having only one outlet for vehicular traffic and terminating in a turn-around area.
6. **Frontage Access (Service Road):** A local or collector street, usually parallel and adjacent to an arterial/interstate highway, which provides access to abutting properties and controls traffic access to the arterial.

SUBDIVIDER: Any person, firm, corporation, or other entity who causes land to be subdivided or who proposes a subdivision of land (76-3-103(14), MCA).

SUBDIVISION: Also a division of land or land so divided that it creates one or more parcels containing less than 160 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed, and shall include any re-subdivision; and shall further include any condominium or area, regardless of its size, which provides or will provide multiple space for recreational camping vehicles, or mobile homes. A subdivision shall comprise only those parcels less than 160 acres which have been segregated from the original tract, and the plat thereof shall show all such parcels whether contiguous or not. Provided, however, condominiums constructed on land divided in compliance with the MSPA MCA, are exempt.

SUBDIVISION APPLICATION: An application package for a proposed subdivision which meets all the requirements identified in Section II.B.

SUBDIVISION IMPROVEMENTS AGREEMENT (SIA): A contract between the subdivider and the local governing body specifying what improvements are presently on the land to be subdivided, what improvements are planned, when such improvements will be constructed, and how such improvements will be financed. Draft SIA's are required to

be submitted with all subdivision applications and include information such as weed control measure, fire fighting water supplies, and waivers of protest. SIA's are filed with the final plat.

SURVEYOR (REGISTERED LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer's Registration Act (Title 37, Chapter 67, MCA) to practice surveying in Montana.

SURVEYOR (EXAMINING LAND SURVEYOR): A surveyor selected by the governing body to review surveys and plats submitted for filing.

TRACT OF RECORD: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's Office (76-3-103(16)(a), MCA. (a) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the County Clerk and Recorder: (i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or (ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel; (b) An instrument of conveyance does not merge parcels of land under subsection (a)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels.

VICINITY SKETCH: A map at a legible scale suitable to locate the proposed subdivision, the roads by name/number that serve the site, and the distance to the nearest town.